

**DEPARTMENT OF THE NAVY
Office of the Secretary
Washington, DC 20350-1000**

**SECNAVINST 4350.11
OP-933F2
17 September 1986**

SECNAV INSTRUCTION 4350.11

**From: Secretary of the Navy
To: All Ships and Stations**

**Subj: PERSONAL SERVICES CONTRACTING FOR
DIRECT HEALTH CARE PROVIDERS**

**Encl: (1) DOD Instruction 6025.5 of 27 Feb 85
(2) Personal Services Contract Performance
Work Statement (PWS) Format**

1. Purpose. Implements enclosure (1) within the Department of the Navy (DON), establishes policy and responsibilities, and provides a format for the performance work statement.

2. Applicability and Scope. This directive applies to all Navy and Marine Corps activities.

3. Policy. It is the policy of the DON:

a. To provide medical support within budgeted manpower, facilities, and operating funds whenever possible.

b. To execute personal services contracts for direct health care providers in accordance with enclosure (1). This may be accomplished only after all attempts to ob-

tain staffing for medical manpower requirements from within existing DON resources have failed.

c. To include at a minimum in personal services contract the elements of the performance work statement in enclosure (2).

4. Responsibilities. The Chief of Naval Operations (CNO) shall establish guidance for the review and approval/disapproval of all personal services contract PWSs for direct health care providers for all Naval activities. Delegated approval authorities shall be at the lowest command echelon possible which has the necessary expertise to properly perform such reviews.

5. Procedures. All DON activities desiring to execute a personal services contract with direct health care providers per enclosure (1) shall forward a completed PWS to the appropriate approving authority via the applicable chain-of-command. The format displayed in enclosure (2) will be used for submissions. No contract will be executed until approval has been obtained.

**JAMES F. GOODRICH
Under Secretary of the Navy**

**Distribution:
SNDL, Parts 1 and 2
MARCORPS Codes H and I**

**Commander
Naval Data Automation Command (Code-1436)
Washington Navy Yard
Washington, D. C. 20374-1662 (200 copies)**

**Stocked:
CO, NAVPUBFORMCEN
5801 Tabor Avenue
Philadelphia, PA 19120-5099 (500 copies)**



Department of Defense INSTRUCTION

SECNAVINST 4350.11
17 SEP 1986

February 27, 1985

NUMBER 6025.5

ASD (HA)

SUBJECT: Personal Services Contracting Authority for Direct Health
Care Providers

References: (a) Title 10, United States Code, Section 1091, "Contracts
for Direct Health Care Providers"
(b) Federal Acquisition Regulation (FAR), Part 37

A. PURPOSE

This Instruction establishes policy under reference (a), and assigns responsibility for implementing the authority for personal services contracts for direct health care providers.

B. APPLICABILITY AND SCOPE

1. This Instruction applies to the Office of the Secretary of Defense (OSD) and the Military Departments.

2. It applies only to personal services contracts awarded under 10 U.S.C. 1091 (reference (a)) for direct health care providers.

C. DEFINITIONS

1. Personal Services Contract. A contract that, by its express terms or as administered, makes the contractor personnel appear, in effect, to be government employees.

2. Direct Health Care Providers. Health services personnel who participate in clinical patient care and services. This does not include personnel whose duties are primarily administrative or clerical, nor personnel who provide maintenance or security services.

D. POLICY

1. It is the policy of the Department of Defense that when in-house sources are insufficient to support the medical mission of the Military Departments, personal services contracts under reference (a) may be executed.

2. It is the purpose of personal services contracts to facilitate mission accomplishment, maximize beneficiary access to military MTFs, maintain readiness capability, reduce use of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), and enhance quality of care by promoting the continuity of the patient/provider relationship.

Enclosure (1)

3. Personnel services contractors shall be subject to the same quality assurance, credentialing processes, and other standards as those required of military health care providers. In addition, providers, other than para-professionals, must be licensed in accordance with state or host country requirements to perform the contract services.

4. In establishing effective lines of authority and accountability, DoD supervisors may direct the activities of personal services contractors on the same basis as DoD employees. However, the rights, benefits, and compensation of personal services contractors shall be determined solely in accordance with the personal services contract.

5. Requests for personal services contracts contemplating reimbursement at the maximum rate of basic pay and allowances under 10 U.S.C. 1091 (reference (a)) shall be approved at the major command level. The 0-6 grade shall be used sparingly and subsequently will be subject to review.

E. PROCEDURES

1. Each contract under reference (a) with an individual or with an entity, such as a professional corporation or partnership, for the personal services of an individual must contain language specifically acknowledging the individual as a personal services contractor whose performance is subject to supervision and direction by designated officials of the Department of Defense.

2. The appearance of an employer-employee relationship created by the DoD supervision of a personal services contractor will normally support a limited recognition of the contractor as equal in status to a DoD employee in disposing of personal injury claims arising out of the contractor's performance. Personal injury claims alleging negligence by the contractor within the scope of his or her contract performance, therefore, will be processed as claims alleging negligence by DoD military or civil service personnel.

3. Compensation for personal services contractors under 10 U.S.C. 1091 (reference (a)) shall be within the limits established in the Table of Authorized Compensation Rates. (See enclosure 1) Prorated compensation based upon hourly, daily, or weekly rates may be awarded when a contractor's services are not required on a full-time basis. In all cases, however, a contractor may be compensated only for periods of time actually devoted to the delivery of services required by the contract.

4. Contracts for personal services entered into shall be awarded and administered pursuant to the provisions of the Federal Acquisition Regulation (reference (b)) and DoD and departmental supplementary contracting provisions.

F. RESPONSIBILITIES

1. The Military Departments shall be responsible for the management of the direct health care provider contracting program, ensuring that effective means of obtaining adequate quality care is achieved in compliance with the FAR (reference (b)). The portion of the Military Department regulations ensuring that compensation provided for a particular type of service is based on objective criteria and is not susceptible to individual favoritism shall be stressed.

Feb 27, 85
6025.5

2. The Office of the Assistant Secretary of Defense (Health Affairs)
(OASD(HA)) shall be responsible for monitoring the personal services contracting
program.

G. EFFECTIVE DATE AND IMPLEMENTATION

This Instruction is effective immediately. Forward three copies of imple-
menting documents to the Assistant Secretary of Defense (Health Affairs) within
120 days.

William Mayer, MD.

Assistant Secretary of Defense
(Health Affairs)

Enclosure - 1
Table of Authorized Compensation Rates

TABLE OF AUTHORIZED COMPENSATION RATES

<u>OCCUPATION/SPECIALTY GROUP</u>	<u>COMPENSATION RATE NOT TO EXCEED</u>	
	<u>Pay Grade</u>	<u>Years of Service</u>
I. Physicians and dentists	0-6	over 26
II. Other individuals, including nurse practioners, nurse anesthetists, and nurse midwives, but excluding paraprofessionals	0-5	over 20 but less than 22
III. All registered nurses, except those who are included in Group II	0-4	over 16 but less than 18
IV. Paraprofessionals	0-3	over 6 but less than 8

PERSONAL SERVICES CONTRACT
PERFORMANCE WORK STATEMENT (PWS) FORMAT

1. Scope of Contract

a. The work to be performed is located in the (name of department) of the (name and location of facility). The contractor is a (clinical physician, registered nurse, physician assistant, etc.) who provides (specialty name) services. The contractor temporarily staffs the billet or position of an authorized Government health care provider which is vacant because of (specialist shortages, leave, mobilization of the permanent incumbent, etc.).

b. During the term of this contract, the contractor agrees to perform on behalf of the Government the duties of a (specialty medical officer, nurse, physician assistant, etc.) per the laws and regulations in effect upon the execution of this contract and as they may be periodically amended. Services performed under the terms and conditions of this contract shall be at no expense to the individual receiving medical care. While on duty, the contractor shall not advise, recommend, or suggest to individuals authorized to receive medical care at Government expense that such individuals should receive medical care from the contractor when they are not on duty; or, except with the expressed written consent of the commanding officer, from a partner or medical group associated in practice with the contractor. The contractor is not prohibited, by reason of employment under this contract, from conducting a private medical practice or other employment, if there is no conflict with the performance of duties under this contract. Such practice shall not be conducted during the regular hours established hereunder during which the contractor is required to render services to the Government. The contractor shall make no use of any Government facilities or other Government property in connection therewith.

2. Duty Hours

a. The contractor shall be on duty at the (facility name) for scheduled medical treatment of eligible military personnel, their dependents, and other beneficiaries from (start time) hours to (finish time) hours from (start day) through (finish day) throughout the term of this contract.

b. The contractor shall be on call for emergency medical treatment of eligible military personnel, their dependents, and other beneficiaries. Determination of circumstances which require callback are defined in paragraph 3c of this enclosure.

17 SEP 1986

3. Duties

a. The contractor performs a full range of (specialty name) procedures on-site using Government-furnished facilities and equipment. Case load occurs as a result of either scheduled or emergency requirements for care.

b. Routine workload is scheduled by the medical facility. Workload is the result of (indicate means of generating workload; such as consultation requests submitted to the specialty clinic by other staff health care providers or appointments scheduled through the medical facility by patients). The contractor has full responsibility for (e.g., diagnostic examinations and testing, development of comprehensive care plans, delivery of treatment within the personnel and equipment capabilities of the facility), and for the quality and timeliness of narrative summaries of procedures performed and care provided. Patients frequently have overlapping, multiple symptoms because of the presence of more than one condition and often require complicated, long-term treatment. The contractor may refer patients to other staff specialists for consultative opinions and continuation of care and may see the patients of other staff health care providers who have been referred for consultation.

c. Emergency services may be required at any time during the day or night, including holidays, and are to be provided on an on-call basis. The determination of circumstances which constitute an emergency and initiation of callback shall be the responsibility and prerogative of the activity commanding officer or the designated command representative.

d. The contractor directs supporting Government employees during the performance of clinical procedures. The contractor performs limited administrative duties which include maintaining statistical records of workload, participating in clinical staff quality assurance functions, participating in medical education programs, and preparing documentation for medical boards.

e. The contractor shall perform the following specific functions and an estimated monthly workload:

(1) Emergency Specialty Procedures and Cases:

(a)	Procedure 1	_____	per month
(b)	Procedure 2	_____	per month
...			
(c)	Procedure n	_____	per month

17 SEP 1986

(2) Scheduled Specialty Procedures and Cases:

- (a) Procedure 1 _____ per month
- (b) Procedure 2 _____ per month
- ...
- (c) Procedure n _____ per month

(3) Outpatient Clinical Consultations:

- (a) Active Duty Personnel _____ per month
- (b) Retired Personnel _____ per month
- (c) Dependents _____ per month
- (c) Other Eligibles _____ per month

(4) Inpatient Clinical Consultations:

- (a) Active Duty Personnel _____ per month
- (b) Retired Personnel _____ per month
- (c) Dependents _____ per month
- (c) Other Eligibles _____ per month

(5) Administrative Services:

- (a) Boards and Committees Attendance _____ hours per month
- (b) Continuing Medical Education _____ hours per month
- (c) Medical Boards _____ hours per month

4. Special Requirements

a. Specific skills and knowledge required by this contract include:

(1) Indicate education requirements (e.g., a Doctorate Degree in Medicine or Osteopathy from an accredited college approved by the Council on Medical Education and Hospitals of the American Medical Association).

(2) Indicate board-certification requirements (e.g., board-eligibility or board-certification, as determined by the (name of certifying medical specialty board). The contractor must obtain board-certification within 3 years of eligibility to become board-certified or within two cycles of board examinations as offered by the certifying medical specialty board. Recertification in the specialty or subspecialty is required as outlined by the certifying board).

(3) Evidence of continuing medical education which maintains skills and knowledge in the medical specialty.

17 SEP 1986

(4) Have and maintain a current valid license to practice medicine (or other license as appropriate) in the State of (name of state) or host country (name of country).

b. Guidelines are general in nature and consist of Department of Defense (DOD), Department of the Navy (DON), and Commander, Naval Medical Command (COMNAVMEDCOM) instructions, notices, and publications. Specific guidance includes the Accreditation Manual for Hospitals of the Joint Commission on the Accreditation of Hospitals, Manual of the Medical Department (MAVMED), and medical facility instructions and notices, as appropriate.

c. Contract health care providers shall apply for and obtain clinical staff appointments and clinical privileges at the facility where services are to be performed prior to start of work. The elements include: (1) verification of credentials and application information which must occur before providing clinical treatment and services, (2) evaluation of qualifications for clinical staff membership, (3) delineation of the scope of practice in which the contractor may perform, (4) granting of clinical privileges by the commanding officer based on qualifications and demonstrated competence, and (5) biannual reevaluation and continual review of the contractor's standard of care and clinical competence.

d. Personal injury claims alleging negligence by the contractor within the scope of their contract performance and within clinical privileges granted by the commanding officer will be processed as claims alleging negligence by DOD military or civil service personnel.

e. The contractor shall agree to obtain health examinations and such other medical and dental examinations as the commanding officer of the activity may deem necessary for credentialing.

f. The contractor shall agree to comply with the "Medical Staff Rules, Regulations and Bylaws" related to clinical practice promulgated by the commanding officer of the activity and the nation-wide standards of the medical specialty in which they practice.